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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/922,325	08/03/2001	Stephen Joseph Ladyansky	D2702	7462

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EXAMINER

FRECH, KARL D

ART UNIT

PAPER NUMBER

2876

DATE MAILED: 06/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/922,325

Applicant(s)

LADYANSKY, STEPHEN JOSEPH

Examiner

Karl D Frech

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4 and 6-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24-32 is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6-23,33-35 and 37 is/are rejected.
- 7) ☒ Claim(s) 36 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. Applicant's response filed 2/13/03 has been entered as paper number 5. By this response, claims 2 and 5 have been canceled, claims 33-37 have been added and claims 1,24 and 25 have been amended.
2. The amendment to the specification to proposed paragraphs [0010] and [0011] have not been entered as they do not "match up" with the paragraphs [0010] and [0011] as seen in the original specification. Further it appears that the applicant desires proposed paragraph [0010] is to be the clean replacement for the "marked up" proposed paragraph [0011]. However the paragraph identifiers [0010] and [0011] are not identical. Upon review, it appears that the applicant wishes proposed "clean version" [0010] and proposed "marked up" version [0011] to be an amendment for original [0032]. If in fact this is the case, applicant should use the paragraph identifier "[0032]" and page and line number (pg. 12, ln 4) to locate the proposed amendment within the original specification. Such an amendment would overcome the websight objection as seen in this office action.
3. The disclosure is objected to because of the following informalities: the websight disclosed on the bottom of page 12 of the current specification must be removed.

Appropriate correction is required.
4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made

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to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-23,33-35,37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman et al 6,019,284 in view of Bates 5,314,765.. Freeman discloses a circuit card with a flexible battery. Freeman does not specifically disclose any specific form of RAM memory on the card, that this RAM is encapsulated in an epoxy resin, that the battery's anode and cathode are connected to this RAM. RAM, SRAM, DRAM are all known form of volatile memory. All batteries have anodes and cathodes as the electrodes for connection to external devices to be powered. Encapsulating chips, including memory chips, and batteries within circuit cards with epoxy resins is old and well known in the art. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to encapsulate a SRAM connected to a battery within the card of Freeman with epoxy resin. This would allow for the card and it's processor to store reusable information in a manner which is structurally secure and by a method that is well established and proven. Freeman does not disclose that the thin film battery has a solid state electrolyte with lithium phosphorous oxide on the anode. Bates discloses as seen in the abstract a battery with lithium nitride coated on a lithium anode and further that lithium phosphorous oxynitride is coated upon this lithium anode. Although Freeman is silent as to the battery being a lithium battery, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use this lithium battery of Bates in the card of Freeman in order to take advantage of the known advantages of lithium batteries.

6. Claims 24-32 are allowed as applicant's arguments are deemed persuasive.

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7. Claim 36 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, for the same reasons as related to claim 24.

8. Applicant's arguments filed 2/13/03 regarding claims 1-23 have been fully considered but they are not persuasive. Applicant arguments center around the "hermetically sealed" element of the current claims. The examiner appreciates applicant's interpretation, but offers Kodai, et al as support for "hermetically sealed" circuit cards (see col 2 line 9). Further, in response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karl Frech whose telephone number is (703) 305-3491. The examiner's supervisor is Michael Lee whose telephone number is (703)305-3503. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Tech Center receptionist whose telephone number is (703)308-0956. The Tech Center fax number is (703) 308-7722.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [karl.frech@uspto.gov]. All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.



Karl D. Frech
Primary Examiner, AU 2876
June 02, 2003